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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/918,723	08/01/2001	Robert Chambers	003797.00134	2449

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BANNER & WITCOFF LTD.,  
ATTORNEYS FOR MICROSOFT  
1001 G STREET, N.W.  
ELEVENTH STREET  
WASHINGTON, DC 20001-4597

EXAMINER
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OPSASNICK, MICHAEL N

ART UNIT	PAPER NUMBER
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2655

DATE MAILED: 06/23/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

09/918,723

Applicant(s)

CHAMBERS ET AL.

Examiner

Michael N. Opsasnick

Art Unit

2655

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 28 January 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-35 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-35 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
- Paper No(s)/Mail Date 6/24/2002

- 4) ☐ Interview Summary (PTO-413)
- Paper No(s)/Mail Date. \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_

## DETAILED ACTION

### *Specification*

1. The title of the invention is not descriptive. A new title is required that is clearly indicative of the invention to which the claims are directed.

### *Claim Rejections - 35 USC § 102*

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claims 1-11,30-35 are rejected under 35 U.S.C. 102(b) as being anticipated by Gould et al (6088671).

As per claims 1,30, Gould et al (6088671) teaches a method for using a microphone and a button wherein the method comprises activating said microphone (col. 2 lines 64-67, Fig. 1); receiving a user input on the button (as Utt interrupt signal, col. 3 lines 22-45); and placing the device into a dictation or command mode (col. 1 lines 42-57, Fig. 4);

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As per claims 2-8,31-35, Gould et al (6088671) teaches various types of combinations of the use of the button, for example, the user can change the input as command or dictation (col. 10 lines 3-6, col. 11 lines 9-16).

As per claim 9, Gould et al (6088671) teaches an indication to the user as to what mode is being used (as box being outlines -- Fig. 15d)

As per claims 10,11, Gould et al (6088671) teaches display an highlighting as an indicator (col. 5 lines 13-16).

***Claim Rejections - 35 USC § 103***

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 12-29 are rejected under 35 U.S.C. 103(a) as being unpatentable over Gould et al (6088671) in view of VanBuskirk et al (6075534).

As per claims 12,22,23, Gould et al (6088671) teaches speech recognition system with microphonic input (col. 2 lines 55-67) that automatically detects speech as a command or dictation (col. 2 lines 50-60; col. 3 lines 35-50, and Fig. 4). Gould et al

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(6088671) does not explicitly teach a distinct relationship between an input by the user (via a button) and two states of a microphone. VanBuskirk et al (6075534), however, teaches a speech recognition user interface, supporting different modes of operation, including 2 microphonic state (col. 2 lines 1-35). Therefore, it would have been obvious to one of ordinary skill in the art of speech recognition to modify the teachings of Gould et al (6088671) with a dual mode microphone because it would advantageously allow the user to shut off the microphone (VanBuskirk et al (6075534), col. 4 lines 40-51).

As per claims 13-16, 24,25, the combination of Gould et al (6088671) in view of VanBuskirk et al (6075534) teaches two separate activation states of the microphone (VanBuskirk et al (6075534), col. 5 lines 15-30).

As per claims 17-21,26-29 the combination of Gould et al (6088671) in view of VanBuskirk et al (6075534) teaches a processor recognizing dictate text and commands (Gould, Fig. 2, with a microphonic input – col. 2 lines 64-68), wherein the minibar functions are used to turn the microphone off, turn it on, and turn it on for either navigation mode or dictation mode (VanBuskirk et al (6075534), col. 4 lines 46-67).

### ***Response to Arguments***

6. Applicant's arguments filed 1/18/2005 have been fully considered but they are not persuasive. As per applicant's arguments that Gould does not teach "user input on the button", the examiner argues that "on the button" is non-functional descriptive language, and as such does

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not carry patentable weight (the language pertains to "where" the user is, not so much as requiring the user to press, push, etc. the button). As per the arguments that the VanBuskirk reference would destroy Gould if combined, examiner argues that not only is the Gould reference not destroyed, but the Gould reference is enhanced with another means for the user to switch between command and dictation mode. Examiner also notes that the combination of Gould in view VanBuskirk teaches the depression of the button for more than one state (the minibar offering more than one mode while pressing the minibar).

### ***Conclusion***

**7. Any response to this action should be mailed to:**

Commissioner of Patents and Trademarks

Washington, D.C. 20231

**or faxed to:**

(703) 872 9314,

(for informal or draft communications, please label "PROPOSED" or "DRAFT")

Hand-delivered responses should be brought to Crystal Park II, 2121

Crystal Drive, Arlington. VA., Sixth Floor (Receptionist).

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Michael Opsasnick, telephone number (571)272-7623, who is available Tuesday-Thursday, 9am-4pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Mr. Wayne Young, can be reached at (571)272-7582. The facsimile phone number for this group is (571)272-7629.


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Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Group 2600 receptionist whose telephone number is (571) 272-2600, the 2600 Customer Service telephone number is (571)272-2600.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

mno

6/21/05

  
Michael N. Opsasnick  
Examiner  
Art Unit 2655